FBI Victory in the Supreme Court, P. 2

Calif. Democrats Hit Back at The House Un-American Committee In Defense of Teachers, See Page 3

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No Worse Than A Bad Cold

There was a time when men-of-the-world advised younger males just emerging from adolescence that a certain venereal disease was no worse than a bad cold. This sage advice is recalled to us by the current activities of Congressman Chet Holifield as chairman of the radiation subcommittee of the Joint Committee on Atomic Energy. A few weeks ago he held hearings which showed that fallout from testing wasn't too bad, certainly not as bad as the fallout to be expected in a nuclear war. Now he is holding hearings which seem designed to prove that nuclear war isn't too bad either, certainly not as bad as total extinction. Next we suppose the Holifield subcommittee will hold hearings on the problem of extinction and turn up with two Rand Corporation *yogis,* complete with declassified crystal balls, to testify that after all extinction is only an unscientific term for *nirvana,* the blissful state of pure Not-Being, once achievable only by a select few but now happily put within the reach of millions everywhere thanks to the development—by testing—of thermonuclear weapons.

Our Military Go Profound

The star witness of the opening session was a Dr. Frank Shelton, who appeared as Technical Director, Defense Atomic Support Agency, Department of Defense. He read a lengthy scientific paper called "Basic Effects of the Specific Weapons Used in the Assumption" (no theological reference intended). It began—with dazzling Clausewitz-like precision—"The effect of a nuclear war is the sum of the effects of the weapons employed against the individual targets. The individual weapons effects thus form the building blocks for the sum of the effects. . . . Finally, world-wide fallout is the sum of each of the individual's weapon's contribution." This reduction of nuclear war to adding machine clarity must impress the Army War College as sheer latter-day Isaac Newton, the kind of profound stuff the old regular army lacked.

Dr. Shelton spoke of nuclear war in the pleasant elocutionary tone of a real estate salesman showing off a new suburban development. "Few people," he told the subcommittee at one point, "appreciate the fact that second degree burns on the exposed face and hands and the ignition of fine kindling fuels can encompass an area within 25 miles or about 2,000 square miles in the immediate and perhaps dense population of the target area. This thermally affected area could be substantially larger than that of the lethal fallout area. . . . Fallout and its potentially lethal areas are important, but so are the areas of the other effects." Dr. Shelton on initial and residual radiation had the gusto of a man leading a guided tour. All in his narration was calm and scientific. Thus he explained that "blast pressure in itself is not a significant casualty agent" but hastened to add with the true researcher's devotion to exactitude. "However, the secondary effects of injuries caused by crumbling buildings, flying debris and translation of the man himself, are certainly significant." This

(*Continued on Page Four*)

Pentagon Expert Reassures The World

Dr. Frank SHELTON, Technical Director, Atomic Support Agency, Dept. of Defense: ". . . even for a very large scale war, the worldwide hazard to the countries not attacked would not be very important in terms of their survival. For those who are familiar with the novel "On The Beach" [which pictures the extinction of the human race in nuclear war]—

Rep. HOLIFIELD: Dr. Shelton, if I may interrupt you, you are talking there about it would not be important for their immediate survival?

Dr. SHELTON: Yes.

Rep. HOLIFIELD: It might be important genetically over the generations, but it is not important from the standpoint of an immediate casualty.

Dr. SHELTON: That is right. I did say in terms of their survival. They can worry about the genetics. . . .

Sen. ANDERSON: Is this [hopeful forecast] a little confusing to people who are trying to understand the European attitude toward testing and so forth? . . . Can we go to them and say you people in France don't need to worry. The British will be firing at the Russians and vice versa, and there will be fallout between both, but it won't hurt you any? . . . All you have to do is to take this sentence and you can say, Dr. Shelton says nothing will happen. "It will be like a shower of ceremonial spray of some kind, and it won't hurt you at all." Is that what you are saying?

Dr. SHELTON: I am saying as far as the world-wide hazard. . . . It certainly depends on one's point of view and the proximity of one's country to the closest bomb. The bomb's fallout will have no respect for boundaries or countries. . . .

Sen. ANDERSON: A shot that is fired from Russia close to the coast of Country A right next to the Belgians would go clear across all of Belgium and the Netherlands.

Dr. SHELTON: That is right.

Sen. ANDERSON: Those people should look at that with calm?

Dr. SHELTON: Certainly not, sir. . . . They are in the local fallout area.

Sen. ANDERSON: But the statement will not be interpreted by them as the local fallout area.

Dr. SHELTON: There is always a hazard of pulling a sentence out of context, I agree. If one is in the proximity of war, there will be no respect of country boundaries.

Sen. ANDERSON: Wouldn't you agree that if there was a very large scale atomic war that nearly everybody in Europe would be affected by it?

Dr. SHELTON: Yes, sir. I was going to say to those familiar with "On the Beach," it is probably pure fiction."

—Nuclear War Hearings, June 22.

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Frankfurter Abandons His Favorite Rule of Restraint in Palermo Case

Way Cleared for FBI to Evade Jencks Law by Using Summaries in Pre-Trial Quiz

Two important principles were involved in the three "Jencks rule" decisions by a Supreme Court split 5-to-4 last Monday. The first is that a defendant is entitled for purposes of impeachment to see prior reports or statements by a government witness. The other is that the Supreme Court ought not to decide questions before they arise. The latter is a favorite of Mr. Justice Frankfurter, who is always preaching the virtues of judicial restraint. His signal failure to exercise those virtues put the liberals in a minority of four again, and gave the FBI a victory.

The Jencks decision, by Mr. Justice Brennan two years ago, gave Clinton E. Jencks a new trial for perjury on a non-Communist affidavit, ruling that the trial court erred in not letting the defense see prior reports to the FBI by two notorious informers, J. W. Ford and Harvey Matusow. Clark, the Justice most sensitive to the FBI point of view, objected that this would open its informer files to inspection. He was then the sole dissenter but the Court was oddly divided.

Four Man "Majority" Now Minority

The newly appointed Whittaker took no part in the Jencks case, so the decision was by an 8-man court. Brennan wrote the decision for himself, Warren, Black and Douglas. Frankfurter joined the opinion of the Court but agreed on a different point with a concurring opinion by Burton and Harlan. Now Frankfurter and Harlan have joined Clark and the two new members, Whittaker and Stewart, in a restrictive reading of the law. The four judges who delivered the decision two years ago are now the minority.

The split between the new liberal minority and the new right-of-center majority came on the interpretation of the law passed by Congress last year under pressure from an FBI-orchestrated campaign to protect its informer files. The law as passed represented a compromise. The most important point the FBI won was a restrictive definition of what kind of prior statements should be made available to the defense. These were limited to signed written statements or a substantially verbatim recording. The liberals in the Senate fought this on the grounds that the FBI would be able to evade the law by recording prior interviews in summary form instead of verbatim. This is the issue on which the Court split in the key "Jencks case," that of a New York physician, Palermo, convicted of income tax evasion. He appealed the failure of the trial judge to make available to the defense just such a summary, although the defense had already obtained a transcript of the witness's pre-trial interrogation and affidavit.

The liberal minority agreed with the majority in denying a new trial; the liberals did not seem to think the summary essential in the circumstances. What the liberal four, speaking through Brennan objected to, was the sweeping language of the majority decision by Frankfurter. The minority protested that this went beyond the issue in this case to decide in advance that last year's statute "is the sole vehicle whereby production of prior statements of government witnesses to government agents may be made to the defense."

An Issue of Fair Trial

Brennan cited as an example, "Take the case of a memorandum of a government agent simply stating that a person interrogated for several hours as to his knowledge of the defendant's alleged criminal transactions, denied any knowledge of them. Then suppose that person is called as a government witness at the trial and testifies in great detail as to the defendant's alleged criminal conduct . . . it is inconceivable that Congress intended, by the *Jencks* statute, to strip the trial judge of discretion to order such a summary produced to the defense. Even the Government, in oral argument, conceded that the statute did not strip the district judges of discretion to order production of such a statement under some circumstances." Brennan indicated that to deny the judge such discretion would be to raise a question of constitutionality as allowing less than fair trial.

The real issue appears in the concluding section of the Brennan dissent where he warns, 'There inheres in an over-rigid interpretation and application of the statute the hazard of encouraging a practice of government agents' taking statements in a fashion calculated to insulate them from production." To open this avenue of evasion was indeed the strategy of the pro-FBI bloc in Congress led by Keating of New York, then in the House. Frankfurter, speaking for a new majority, blocked the effort of the liberals to leave Judges a little more leeway.

Three State Witch Hunt Defendants Go Free on "Fifth Amendment" Grounds

Two years ago the Supreme Court remanded to the Ohio Courts four cases involving contempt of the Ohio "Un-American Activities Commission" for reconsideration in the light of the Sweezy and Watkins decisions. The remand is made to look silly by the way the Supreme Court disposed of these cases last Monday. It reversed three contempt convictions and upheld one on grounds which had nothing to do with either Sweezy or Watkins. The Ohio Supreme Court (Justice Stewart Potter's father dissenting) had held that these witnesses had no right to claim their privilege against self-incrimination because there is an Ohio statute which grants a limited immunity from State prosecution to witnesses before legislative committees.

Because of his father, Justice Stewart took no part in the case, so it was decided by an 8-man court. The Court in effect upheld Judge Stewart's dissent on the Ohio bench. He argued that since the Ohio Un-American Activities Commission itself seemed unaware of the existence of this immunity statute and had instructed the witnesses that they could plead their "Fifth Amendment" privilege, it was unfair to hold them in contempt for doing so. Judge Stewart upheld the conviction of a fourth witness, however, since he had been instructed by the Commission to answer after he claimed the privilege on the question, "Where do you reside?"

Brennan, Warren, Black and Douglas were for reversing this fourth witness's conviction, too. Clark, with Frankfurter, Harlan and Whittaker, voted for upholding the conviction. The rule is that a divided court upholds the court below so this fourth conviction stands. The issues which divided the court in this fourth case are too subtle for disentanglement without more space than they are worth. The essential point again is the new division on the court, and the disposition of a new majority to give witch hunters, State and Federal, rather than their victims, the benefit of the doubt.

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Is There A Secret Anglo-Soviet Deal on Iraq? Herter Admits Some Progress on Berlin

Even the Big Money (Rockefeller, Kuhn, Loeb) Failed to Win for Strauss

The most extraordinary aspect of the Senate vote against Strauss (a Rockefeller and Kuhn, Loeb man) was the failure of the drive put on by big money interests on his behalf, and the most important effect of his defeat is to strengthen the hand of Senator Clinton P. Anderson, chairman of the Joint Committee on Atomic Energy, and the last member of that committee who remains independent of the AEC. The only three Northern Democratic votes for Strauss came from two members of the Joint Committee, Pastore of Rhode Island and Gore of Tennessee, both spokesman for the AEC anti-test cessation point of view, and from Dodd of Connecticut, who shares the "holy war" outlook of Thomas E. Murray. The Strauss defeat will have a sobering effect on other executive office occupants, like his successor McCone, and make them realize that a policy of constantly misleading Congress and the public is politically dangerous. No man more richly deserved the defeat he got than Lewis Strauss, not least for his false injection of an anti-Semitic issue.

Secret Deal on Iraq?

We hope to discuss the Geneva Berlin talks more fully in an early issue. We suggest that the labyrinthine talks become clearer if regarded as a hidden tug-of-war between the Germans, who want no agreement until they are fully rearmed, and the British, who want a settlement with the Russians before the Germans become too powerful. We also suggest that there are reasons to believe that Macmillan and Khrushchev reached a side agreement of their own on Iraq. The loss of Iraq to the Communists would imperil Britain's last major source of sterling oil, and make it dependent almost entirely on dollar sources of supply. In the aftermath of Macmillan's visit to Moscow, while the British plugged for summit talks, the Iraqi Communists suddenly took a back seat and Britain announced it would resume the supply of arms to Iraq. There seems to be an Anglo-Soviet understanding which has grown up alongside Anglo-German "misunderstanding."

Bulletin on Nuclear Give-Away

Just as we were going to press, Senator Pastore (D. R.I.), announced that public hearings would be held July 1 and 2, on the new nuclear "give-away" agreements including one to train the German army in nuclear warfare and to give it non-nuclear parts of nuclear weapons systems. Persons desiring to testify should notify Pastore by June 29. These nuclear give-away agreements can be blocked by the passage—within 60 days of submission—of a joint Congressional resolution of disapproval.

Some Progress Was Made on Berlin

The most important part of the Herter radio report was its recognition, after all the inflammatory cold war rhetoric which has become ritual in such matters, that "the conference revealed possible areas of agreement concerning specific arrangements for Berlin." Both sides have made significant concessions on this. Indeed the British had about convinced State Department to start negotiating in this area the second week of the conference when Adenauer intervened. Thereafter while both sides publicly took their old incompatible positions on the future of Germany, the Russians actually gave up everything but their insistence on some day (now extended to 18 months) negotiating a new agreement on Berlin. If they accepted the occupation status, there would be nothing to negotiate—and nothing left for Khrushchev to concede at a summit conference.

Calif. Democrats and San Francisco Chronicle Hit Back at Un-Americans

"The House Un-American Activities Committee's recent attempt to investigate education in California has cast a cloud of suspicion over a group of teachers without giving those individuals, who were not charged with any crime, a chance to defend their reputations.

"These hit and run tactics violate basic principles of fair play. They do serious damage, not only to the individual teachers, but to the educational system as a whole. The California Democratic Council Board of Directors expresses its condemnation of this action by this Committee in the strongest terms, and urges Governor Brown and California Congressman to employ all means at their disposal to bring about the cancellation of the existing subpoenas and to prevent any further maligning of the reputations of California citizens.

"We praise such newspapers as the Fresno Bee and the San Francisco Chronicle for their forthright and immediate action in similarly objecting to this action of the House Un-American Activities Committee."

—Resolution by the Calif. Democratic Council June 14.

"The shrilly publicized hearings on Communist activities by California teachers, scheduled to open in San Francisco next week, have been abruptly postponed for almost three months. Meanwhile 40 Northern California teachers (plus 70 Southern California) who are under subpoena and whose names have been made public (though not printed by this newspaper) stand accused, with no opportunity to clear themselves. This kind of procedure is hardly in accord with the best American practice, though it is not new with the House Un-American Activities Committee.

"Chairman Francis E. Walter (D. Pa.) says ominously that the hearings were postponed because 'the ramifications of the Communist operation in California are so extensive and malignant that additional investigative work must be done before the actual hearings can be held.' This phrasing was doubtless meant to be devastating—an effect which it must be having upon California's own Un-American Activities Committee whose newly submitted $50,000 report completely missed the malignancy Walter describes.

"Two years of work by this committee on its own home grounds turned up nothing more alarming than an opinion that the U. S. Supreme Court has handed down some ragged opinions, that Chief Justice Earl Warren is not a Red, that writers who plead the Fifth Amendment are now eligible for Oscars, and that the problem of infiltration into the Los Angeles County Medical Association is slight.

"It may be inferred from this conjunction of events that either Walter is talking nonsense for the sake of more publicity for his committee, or that the California committee has no valid reason for existence and is just frittering away $50,000 of public money each biennium. There is the further possibility, of course, that both inferences are correct."

—San Francisco Chronicle, June 12.

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The Holifield Hearings Rest on Improbable Assumptions

(*Continued from Page One*)

piquant use of the term "translation" shows that the new Pentagon intellectuals are also making their contribution to the language of warfare. We assume the casualty reports of the future will contain the number of persons "translated" in each nuclear bombardment.

An "Off the Record" Buildup for Preventive War?

A peripatetic Rand Corporation sage named Kahn has been making off the record speeches to select groups around the country and (according to a speech in Washington last Monday by Norman Thomas) ever so gently raising the question of *whether it might not be profitable under certain conditions for us to initiate a thermonuclear war.* Since Rand Corporation is a Defense Department subsidiary and Kahn presumably cleared for top secret, *need-to-know,* one can only conclude that this is the beginning of a campaign to sell the idea of preventive or pre-emptive war. Since it would be impossible to sell the idea of initiating a war none would survive, it is necessary to sell the corollary that thermonuclear war would not be the end of everything but that after smashing communism in Russia we could (from the nearest nonradioactive caves) rebuild the free enterprise system at our leisure. Dr. Shelton along these lines devoted a major part of his paper to some elaborate calculations showing that the SR90 and genetic hazards piled up by the "limited" nuclear war assumed in these hearings "would not be very important" in terms of the survival of the countries not attacked.

I will have more to report on this after the hearings end. The Shelton figures and the "assumptions" behind the nuclear war dreamed up for the Holifield subcommittee are a succession of delusive improbabilities. In the limited war they assume, 70 American urban industrial areas, 112 air force installations and 21 AEC plants among others would be hit with almost 1500 megatons of bombs in one day without our retaliating and with the war kept "limited." It is assumed that 2500 megatons would be hurled the same day at our overseas bases—and again that there will be no reply. The Shelton figures on how little all the resultant "world-wide" fallout will affect "the countries not attacked" omits the fact that thanks to our far-flung bases some of that 2500-megatonnage and its attendant "local fallout" (which he tacitly excludes from his "worldwide fallout") will blanket most areas of the "free world," much of the neutral world and indeed large areas of the adjacent Soviet realm. Little of the Northern hemisphere would be left in the comfortable category of "countries not attacked." Secondly, if one figures an equal "limited" counter-attack of 4,000 megatons from our side, then the SR90 and genetic hazard figures for "countries not attacked" have to be doubled even by his dubious arithmetic and at once become dangerous even for distant survivors.

The Kind of Dirty Bomb Attack More Likely

The hidden key to these assumptions may be found if one compares the Holifield hearing figures with those given in a study called "The Distribution Effects of Fallout in Large Nuclear Weapons Campaigns" which was published in *Operations Research* for March-April 1959. This study was made by two employes of something called the Weapons Evaluations Division, Institute for Defense Analysis. It purports to carry on a topic initiated by a Rand Corporation study (Rand RM-1969, January 1956) by S. M. Greenfield on "Radioactive Contamination from a Multibomb campaign." The new study shows that by using dirty bombs (two-thirds fission) one can effectively blanket a country with "lethality" without coming closer than 100 miles to key targets. The 22 pages of lovely mathematics and charts in *Operations Research* may explain why the men behind the Holifield hearings assumed only 1453 megatons falling on this country. At that level "only" 20 percent of our people would be killed whereas after that the curves rise sharply. After 20,000 megatons—the amount our Strategic Air Command is supposed to be ready to deliver in one day—the curves of casualties and death meet in total extinction. It is only by assuming this fantasy of a limited attack without reprisal by ourselves (to add to the various kinds of fallout on our allies and enemies alike) that it is possible even to conceive of a nuclear war, and of anything and anyone left to rebuild.

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